



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,505	05/29/2001	Donald R. Katz	25967/8	5909

21710 7590 12/04/2006

BROWN, RUDNICK, BERLACK & ISRAELS, LLP.
BOX 1P, 18TH FLOOR
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER

STRANGE, AARON N

ART UNIT PAPER NUMBER

2153

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/867,505		KATZ ET AL.	
	Examiner		Art Unit	
	Aaron Strange		2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-144 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-144 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08112006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner would like to note that the present Application has been reassigned to a new Examiner.

Response to Arguments

2. Applicant's arguments filed 9/1/06 have been fully considered but they are not persuasive.

3. With regard to claims 132-134, 137-141 and 144, Applicant's arguments are substantially identical to those presented in the remarks filed 12/13/2005. While they have been reconsidered, they remain unpersuasive for at least the reasons set forth in the Office action of 3/1/2006.

4. With regard to claims 39-131; and Applicant's assertion that Brugger and Munyon fail to disclose "generating a target header or encrypting based on information indicative of a player ID" (Page 6 of Remarks), the Examiner respectfully disagrees.

As discussed in the Office action of 3/1/2006 (Page 2-3), Brugger discloses generating a targeted header (core) that contains a consumer code and other structures. The consumer code is associated with one consumer or terminal and, making the core a targeted header as claimed (at least Col 2, Lines 1-15; Col 4, Lines 41-68; Col 5, Lines 64-68).

Encryption based on the player ID was also addressed in the Office action of 3/1/2006 (Page 5), where it was stressed that Munyon's "coding" has been interpreted as equivalent to the claimed encrypting. Furthermore, even if it was not considered encrypting, Brugger clearly teaches encrypting prior to transmission.

Applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the combined teachings of the Munyon and Brugger would have suggested to one of ordinary skill in the art to encrypt the information using information indicative of the player ID prior to transmission because it would have reduced the chances of the data being illegally intercepted in a usable form while allowing the only the desired recipient to decrypt the data.

5. With regard to Applicant's arguments that there is no motivation to combine the cited references, the Examiner respectfully disagrees for at least the reasons set forth in the Office action of 3/1/2006.

In this case, the motivation to combine the references can be found in the knowledge generally available to one of ordinary skill in the art. When presented with the teachings of Ferrel, Munya, and Brugger, one of ordinary skill in the art would have been motivated to encrypt the information prior to transmission, using information indicative of the player ID, in order to ensure that the information could not be intercepted and properly interpreted by an unauthorized third party. Encryption is known

Art Unit: 2153

in the art to be a desirable means of protecting data transmitted over a network, and encryption using a user/device specific key is a known means of ensuring that only the desired recipient can decrypt the data if it is intercepted.

Claim Rejections - 35 USC § 102 and 103

6. Since Applicant's arguments are not persuasive, and no amendments have been made to the claims, the rejections of claims 39-144, set forth in the Office action of 6/14/05, are **MAINTAINED**.

Conclusion

7. As a courtesy to Applicant, and in an effort to expedite prosecution of the present application, this Office action has been made non-final. Applicant is encouraged to consider amending the present claims to overcome the prior art of record. Repeating variants of the same essential arguments is unlikely to be successful in overcoming the currently cited prior art. The Examiner would like to express his willingness to conduct an interview to discuss the present application and any potential amendments Applicant would be willing to make. Applicant is encouraged to contact the Examiner and schedule an interview if Applicant feels that it would expedite prosecution of the present application.


Art Unit: 2153

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS
11/22/2006



GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100